

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: DAVOL, INC./C.R. BARD, INC.,  
POLYPROPYLENE HERNIA MESH  
PRODUCTS LIABILITY LITIGATION

Case No. 2:18-md-2846

JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Kimberly A. Jolson

This document relates to:  
*Aliff v. CR Bard et al.*,  
Case No. 2:20-cv-3901

**OPINION AND ORDER**

On August 3, 2020, Plaintiff Charla J. Aliff filed a complaint in this multidistrict litigation (“MDL”). (ECF No. 1.) Pursuant to this Court’s Case Management Order (“CMO”) No. 8, “[e]ach Plaintiff in an action in MDL 2846 shall complete and serve upon Defendants via email a completed [Patient Profile Form (“PPF”)] . . . along with all duly executed authorizations for the release of relevant medical records, within 60 days after Defendants serve their Short Form Answer upon a Plaintiff.” (Case No. 18-md-2846, ECF No. 57 at PageID #895.) Defendants filed their Short Form Answer on August 24, 2020. (ECF No. 2.) Plaintiff did not produce a PPF within 60 days as required by CMO No. 8 and has not corrected this defect. Defendants filed a Motion to Compel Delinquent PPF (ECF No. 3), which was granted on March 22, 2021 (ECF No. 6). No PPF has been filed. Additionally, on November 4, 2020, Plaintiff filed a Notice of Suggestion of Death. (ECF No. 3.) When a party dies, Federal Rule of Civil Procedure 25(a)(1) permits a motion for substitution by “any party or the decedent’s successor or representative. If the motion for substitution is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. Proc. 25(a)(1). No Motion to Substitute has been filed.

Defendants filed a Motion to Dismiss the case based on Plaintiff's failure to produce a PPF and failure to file a Motion to Substitute. (ECF No. 7.) Plaintiff did not file a response in opposition to the Motion, therefore the Court will treat the Motion as unopposed. *See* Local Civil Rule 7.2 ("Any memorandum in opposition shall be filed within twenty-one days after the date of the service of the motion."). Accordingly, Defendants' Motion to Dismiss is **GRANTED** and Plaintiff's case is **DISMISSED WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

2/11/2022  
DATE

s/Edmund A. Sargus, Jr.  
EDMUND A. SARGUS, JR.  
UNITED STATES DISTRICT JUDGE